

BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203	Docket No.: 68217
Petitioner: BRIAN J. ALLEN, v. Respondent: DENVER COUNTY BOARD OF EQUALIZATION.	
ORDER	

THIS MATTER was heard by the Board of Assessment Appeals on May 31, 2016, MaryKay Kelley and Gregg Near presiding. Petitioner appeared *pro se*. Respondent was represented by Noah Cecil, Esq. Petitioner is protesting the 2015 actual value of the subject property.

Subject property is described as follows:

1420 S Clayton Street
Denver, CO 80210
Denver County Schedule No. 05242-29-002-000

The subject property consists of a single family residence constructed in 2004 for the present owner and occupant. The home contains 2,694 square feet of above grade living area with an unfinished 1,481 square foot basement. There are three bedrooms, three full baths, one half bath and a 3-car garage. The improvement is located on a 6,250 square foot parcel considered average-sized within the neighborhood.

Petitioner is requesting an actual value of \$727,000 for the subject property for tax year 2015. Respondent assigned a value of \$827,500 for the subject property for tax year 2015.

Petitioner testified that his property is below average as compared to the typical home in the neighborhood. He described the windows as standard vinyl, countertops as basic Formica, carpet as worn, flooring as lower-grade hardwood, the kitchen original to 2004, and exterior wood in need of a paint. He considered Respondent's assignment of "grade B" construction quality to be wrong.

Mr. Allen presented five comparable properties ranked as “Grade C” by the Assessor. The assigned values for the properties ranged in sale price from \$550,000 to \$725,000 and in size from 2,158 to 2,900 square feet. After adjustments were made for time, the comparables ranged from \$610,225 to \$786,236. The average adjusted value was \$682,009.

Petitioner also presented five comparable properties ranked as “Grade B” by the Assessor. The homes ranged in assigned value from \$690,000 to \$773,500 and in size from 2,594 to 3,124 square feet. After adjustments were made for time, the comparables ranged from \$700,067 to \$803,166. The average adjusted value was \$752,961.

Mr. Allen considered his home’s value to lie somewhere between \$682,000 and \$753,000 and concluded to a value opinion of \$727,000 during the hearing.

Petitioner is requesting a 2015 actual value of \$727,000 for the subject property.

Respondent presented a value of \$827,500 for the subject property based on the market approach.

Respondent’s witness, Mr. Rick Armstrong, a Certified Residential Appraiser, presented a sales comparison approach containing three comparable sales ranging in sale price from \$710,000 to \$870,000 and in size from 2,571 to 2,761 square feet. After adjustments were made, the sales ranged from \$857,441 to \$901,952.

Mr. Armstrong adjusted the comparable sales for market conditions (time), lot size, physical condition, bathroom count, above grade living area, basement area, basement finish, air conditioning and garage spaces.

The witness gave greatest weight to the adjusted indications of Sale 1 (\$857,441) and Sale 3 (\$901,952). Both properties were described as “pop tops” where the original homes, constructed in 1951 and 1947 respectively, were expanded by addition of a second floor along with extensive renovation of the original structure and fixtures. Mr. Armstrong concluded to an actual value of \$870,000 for the subject property for tax year 2015.

Respondent assigned an actual value of \$827,500 to the subject property for tax year 2015.

Petitioner contends that his home’s quality is inferior to that of an average home within the neighborhood. According to Petitioner, his home is a “Grade C” quality yet the Assessor continues to compare it to homes of “Grade B” quality. Petitioner argues that the market “adjustment” process is incomprehensible, vague and mysterious. Moreover, Petitioner alleges bias in Assessor’s mass valuation process and contends that County’s Appraiser, Rick Armstrong is biased. Petitioner points out that the Assessor’s description of the property changed from “average” for the 2013 valuation to “good” for the 2015 valuation. There have been no changes other than damage due to a break-in during the statutory base period. No inspection was made by the Assessor although an invitation was extended.

Respondent contends the subject property was constructed for the owner to the owner's specifications. Respondent does not dispute the subject improvement is below the neighborhood average and has classified the home as grade "C" for tax year 2015. Grade "C" is tract home quality. The majority of the neighborhood is classified as grade "B" - custom quality.

Respondent also pointed to a contentious history with Petitioner. Respondent's witness testified to having looked at the property eight times and personally visiting the home at least once if not twice. No interior inspection was undertaken for this valuation as there were no reports of significant changes to the real property.

After careful review of all the exhibits and testimony presented at the hearing, the Board identified the following valuation issues: property grade, quality of construction, and a difference between Assessor's quality of construction rating in 2015 and in the previous valuation period (2013).

Petitioner's opinion of the proper value was determined by comparison of the Assessor's assigned values for five "Grade C" properties to the assigned values of five "Grade B" properties. The average of the C grade properties was \$682,009 after each was adjusted for time. The average of the B grade properties was \$752,961 after each was adjusted for time. Mr. Allen concluded to a value opinion of \$727,000 for the subject for tax year 2015 during the hearing.

Petitioner argued that the subject was not valued equally to other similar properties. While equalization is the goal of uniform means and methods of assessment, perfect uniformity is not required under the Colorado statutes or the Constitution.

The parties showed little disagreement over the construction materials such as frame siding, Formica counters and lower end flooring. The Board also agrees the subject's quality is less than is typical for the neighborhood.

The Board's attention was drawn to the change in "quality of construction" rating applied by Respondent's witness for 2015. In the report prepared for the 2013 valuation, the subject is identified as "Average" for this property characteristic. *See* Petitioner's Exhibit 4, Respondent's Appraisal of Real Property, at page 2. Respondent's Appraisal Report for the 2015 valuation identifies the subject's quality of construction as "Good." In the 2013 Report, the witness applied negative adjustments of 13.4% (Sale 2) and 14.9% (Sale 3) to the comparable sales whose quality of construction was identified as "Good." The 2015 report included only properties rated as "Good" and, as the subject was now also rated as "Good," no adjustments were applied.

The Board has recalculated all three of Respondent's sales. Sales One and Three are "pop tops," meaning that their second floors were new construction and that their first floors are assumed to have been remodeled (considered typical with second floor additions). Sale Two was new construction per the witness. Respondent's witness made a (5%) adjustment to Sale Two for construction quality (incorrectly applied as a "condition" adjustment in the report), and the Board concludes that the same adjustment should be applied to Sales One and Three for their new construction and remodeling (applied to "quality of construction," which also includes remodeling of

their first floors). Recalculation concludes to adjusted sale prices of Respondent's Sales One through Three of \$821,941, \$871,650, and \$858,452, respectively. On this basis, the Board finds the assigned value of \$827,500 to be sufficiently supported.

Petitioner presented insufficient probative evidence and testimony to prove that the subject property was incorrectly valued for tax year 2015.

Colorado case law requires that "[Petitioner] must prove that the assessor's valuation is incorrect by a preponderance of the evidence..." *Bd. Of Assessment Appeals v. Sampson*, 105 P.3d 198, 204 (Colo. 2005).

Petitioner presented evidence regarding the assessed values of other properties. Pursuant to Section 39-8-108(5)(b), C.R.S., the assessor's valuation of similar property similarly situated is credible evidence. The Board has reviewed and considered Petitioner's equalization argument. However, the Board found Respondent's evidence more compelling. Pursuant to Section 39-1-103(5)(a), C.R.S., the actual value of residential property shall be determined solely by consideration of the market approach to appraisal. Respondent's evidence included a market approach to appraisal. The Board was convinced that Respondent's value conclusion (which relied on the market approach to appraisal) was credible.

The Board has no jurisdiction in regard to the mass appraisal valuation process. Respondent's witness provided a supportable, site-specific valuation that meets professional standards and the Board finds no evidence of bias.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation of the respondent county, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the

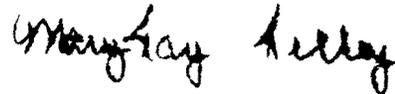
Court of Appeals for judicial review of alleged procedural errors or errors of law within thirty days of such decision when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation of the respondent county, Respondent may petition the Court of Appeals for judicial review of such questions within thirty days of such decision.

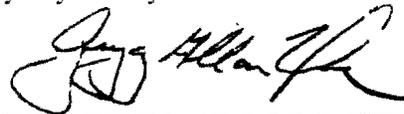
Section 39-8-108(2), C.R.S.

DATED and MAILED this 11th day of July, 2016.

BOARD OF ASSESSMENT APPEALS

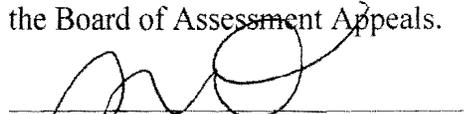


MaryKay Kelley



Gregg Near

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.


Milla Lishchuk